

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EXCELSIA LEATHERWARE COMPANY,

Plaintiff,

- against -

KENNETH HOROWITZ and
BAG STUDIO, LLC,

Defendants.

Case No. 19 Civ. 3127

**AFFIDAVIT FOR ENTRY
OF DEFAULT**

STATE OF NEW YORK)
)
COUNTY OF NEW YORK) ss:

ADAM POLLOCK, being duly sworn, deposes and says:

1. I am a member of the Bar of this Court and a partner with the firm of Pollock Cohen LLP, attorneys for plaintiff in the above-captioned action and I am familiar with all the facts and circumstances in this action.

2. I make this affidavit pursuant to Federal Rule of Civil Procedure 55(a) and Local Civil Rule 55.1, in support of plaintiff's application for the entry of default.

3. Defendant Kenneth Horowitz is not an infant, in the military, nor an incompetent person:

a. Mr. Horowitz was born in 1953.

b. I understand that Mr. Horowitz is not in the military. The process server spoke with Mr. Horowitz's colleague, Ms. Gina Trani, and asked whether Mr. Horowitz "was in active military service of the United States or the State of New York in any capacity, or is a dependent of anyone in the military." Ms. Trani gave "a negative reply" and stated that Mr.

Horowitz “always wore civilian clothes and no military uniform.” See **Exhibit A** (affidavit of service).

c. Finally, I do not believe Mr. Horowitz is incompetent. The basis for my belief is that I have reviewed substantial email correspondence that he wrote in his capacity as President of Bag Studio, LLC. Based on that review, I have no reason to believe that he is incompetent to appear in this action.

4. Defendant Bag Studio, LLC is a corporate entity, and is therefore not an infant, in the military, nor an incompetent person.

5. The defendants have failed to plead or otherwise defend against the action, as indicated by their failure to make any filing whatsoever in this matter.

6. The Complaint was properly served on defendant Kenneth Horowitz on April 11, 2019. See **Exhibit A** (affidavit of service).

7. The Complaint was properly served on defendant Bag Studio, LLC on April 10, 2019. See **Exhibit B** (affidavit of service).

8. I note further that, on April 11, 2019, after being served, Mr. Horowitz emailed to Wilson Chan, a shareholder of Bag Studio, scans of the summons to defendant Horowitz and the summons to defendant Bag Studio. The subject of his email was “Lawsuit.” See **Exhibit C** (Declaration of Wilson Chan).

9. The Clerk’s Certificate of Default is attached as **Exhibit D**.

Dated: New York, NY
May 8, 2019

By: 
Adam Pollock

Sworn to before me this 8th day of May, 2019.


Notary Public

GLIB ZASLAVSKYY
Notary Public, State of New York
No. 02ZA6336107
Qualified in Kings County
Commission Expires 01/25/2020